

Revised: April 22, 2021

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Juan Cheng, an Individual; and	:
Guo Qiang Chen, an Individual,	:
Plaintiff(s),	:
	:
-against-	:
Zhang Medical P.C.; NHFC, Inc.; John J. Zhang;	:
Zitao Liu; The Catherine Fdn Reprod. Med., Ltd.;	:
PacGenomics; Malgorzata Jaremko; Phosphorus,	:
Inc.; Does 1-10, Defendant(s).	:
	:
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Case Number:

No. 1:21-cv-06882 (JGK) (SDA)

REPORT OF RULE 26(f) MEETING AND PROPOSED CASE MANAGEMENT PLAN

In accordance with Federal Rule of Civil Procedure 26(f), counsel for the parties spoke on Nov. 12, 2021 and exchanged communications thereafter, and submit the following report of their meeting for the court's consideration:

1. Summary of Claims, Defenses, and Relevant Issues

Plaintiff:

Plaintiffs engaged defendants to obtain a baby girl through IVF and gender selection procedures but instead bore a boy. Medical malpractice; fraud & fraud. inducement; concealment; misrepresentation; emotional distress; lack informed consent; ord. neg.; breach contract; br. cov. good faith and fair dealing; restitution; deceptive trade practices act; loss of society.

Defendant:

The defendants provided services rendered as promised. The defendants provided care that was within good and accepted practice of fertility medicine. The defendants obtained plaintiff's informed consent for the procedures performed.

2. Basis of Subject Matter Jurisdiction: 28 U.S.C. 1332 (diversity of citizenship)

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3. Subjects on Which Discovery May Be Needed

Plaintiff:

Identification of persons and entities responsible for biopsies and testing of plaintiffs' embryos; all documents that mention 9 embryos by ID letters/numbers; test results for all 9 embryos; licenses and approvals; docs showing success rates of gender selection; documentary communications betw. ptf's & dft's; guidelines for handling embryos; others in ptf's' discovery requests.

Defendant:

Defendants will require copies of all written statements and records in possession of plaintiff, copies of all notes made by plaintiffs, copies of any audio/visual recordings made by plaintiffs, copies of all literature provided to plaintiff by defendants.

4. Initial Disclosures

The information required by Rule 26(a)(1) of the Federal Rules of Civil Procedure ~~XXX~~ will be disclosed by Plaintiff(s) on 1/20/2022 __. In addition, on 1/20/2022 ____, Plaintiff(s) produced/will produce an initial set of relevant documents identified in its Initial Disclosures and will continue to supplement its production.

The information required by Rule 26(a)(1) of the Federal Rules of Civil Procedure ~~was~~ will be disclosed by Defendant(s) on 1/20/2022 __. In addition, on 1/20/2022 ____, Defendant(s) produced/will produce an initial set of relevant documents identified in its Initial Disclosures and will continue to supplement its production.

5. Formal Discovery

The parties jointly propose to the Court the following discovery plan:

a. All fact discovery must be completed by 9/30/2022 __.

b. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. The following interim deadlines may be extended by the parties on consent without application to the Court,

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provided that the parties meet the deadline for completing fact discovery set forth in 5(a) above.

- i. Depositions: Depositions shall be completed by 5/5/2022 and limited to no more than 12 depositions per party. Absent an agreement between the parties or an order from the Court, non-party depositions shall follow initial party depositions.
- ii. Interrogatories: Initial sets of interrogatories shall be served on or before 2/4/2022. All subsequent interrogatories must be served no later than 30 days before the discovery deadline.
- iii. Requests for Admission: Requests for admission must be served on or before 2/4/2022.
- iv. Requests for Production: Initial requests for production were/will be exchanged on 2/4/2022 and responses shall be due on 3/11/2022. All subsequent requests for production must be served no later than 30 days before the discovery deadline.
- v. Supplementation: Supplementations under Rule 26(e) must be made within a reasonable period of time after discovery of such information.

6. Anticipated Discovery Disputes

Are there any anticipated discovery disputes? Does either party seek limitations on discovery? Describe.

7. Amendments to Pleadings

- a. Are there any amendments to pleadings anticipated? Yes, by ptfs.
- b. Last date to amend the Complaint: 3/25/2022

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8. Expert Witness Disclosures

At this time, the parties do/do not (circle one) anticipate utilizing experts. Expert discovery shall be completed by 11/15/2022.

9. Electronic Discovery and Preservation of Documents and Information

a. Have the parties discussed electronic discovery? No.

b. Is there an electronic discovery protocol in place? If not, when the parties expect to have one in place? No. 2/4/2022

c. Do the parties want the Court to enter a Rule 502(d) Order? (see [Rule 502\(d\) Order](#))

Yes X No

d. Are there issues the parties would like to address concerning preservation of evidence and/or electronic discovery at the Initial Case Management Conference?

10. Anticipated Motions

11. Early Settlement or Resolution

The parties have/have not (circle one) discussed the possibility of settlement. The parties request a settlement conference by no later than 5/19/2022. The following information is needed before settlement can be discussed:

Responses to written discovery requests. And completion of depositions.

12. Trial

a. The parties anticipate that this case will be ready for trial by 1/9/2023

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b. The parties anticipate that the trial of this case will require 8 days.

c. The parties do/do not (circle one) consent to a trial before a Magistrate

Judge at this time.

d. The parties request a jury/bench (circle one) trial.

13. **Other Matters**

Respectfully submitted this 12th day of Nov., 2021.

ATTORNEYS FOR PLAINTIFF(S):

s/ Carolyn Shields

ATTORNEYS FOR DEFENDANT(S):

s/ Christopher A. Terzian